

AFFIDAVIT IN SUPPORT OF PETITION TO AMEND
SERVICE OF PROCESS/SUMMONS UPON DEFENDANTS

1. On August 3, 2005, Order was entered in the United States District Court for the Western District of Pennsylvania in the case of Brown v. U.S. Justice Department, et. al., #1:04-cv-379, directing the Marshal to mail a copy of the complaint, amended complaint, notice of lawsuit, request for waiver of service of summons, waiver, and the order to the defendant as directed by the Plaintiff. Also, that costs shall be advanced by the government, signed by Judge Susan Paradise Baxter. See Exhibit C.

2. On August 7, 2005, Plaintiff submitted to the United States Marshals Service an original and 3 copies of a "Process Receipt and Return form (USM-285) with certificate of service. The cover page stated that Plaintiff is providing [you] complete and correct instructions for mailing his claims to defendant as ordered by the United States District Court for the Western District of Pennsylvania on 8/3/05. However, as it turns out below, this statement was incorrect. See Exhibit D.

3. On August 18, 2005, and again on August 24, 2005, the United States Marshals Service properly informed Plaintiff per court order dated 8/3/05 for case no. C.A. 1:04-0379 Erie, that Plaintiff is required to provide the U.S. Marshals Service with directions for service of each defendant. And, with enclosing forms for each defendant, the U.S. Marshals service instructed Plaintiff to return it/them as soon as possible, ensuring that each form is completed

with proper and correct names and addresses. See **Exhibit E**.

4. On August 30, 2005, Plaintiff completed and signed USM-285 forms for the U.S. Attorney General, the U.S. Assistant Attorney for the Western District of Pennsylvania, the U.S. Department of Justice, Bureau of Prisons, FCI McKean, John J. LaManna, D. Scott Dodrill, Harley Lappin, and Medical Dr. Newton E. Kendig. See **Exhibit F**.

5. On September 13, 2005, Plaintiff submitted for mail to the United States Marshals Service an Amended "Process Receipt and Return" Form (USM-285). The cover letter stating that the contents; Form USM-285, Notice of Lawsuit, and Request Waiver of Service of Summons, Waiver of Summons, Order of the U.S. District Court for the Western District of Pennsylvania, copy of Complaint, and Amended Complaint are enclosed for mail and provided upon the United States Marshals, properly completed with correct instructions for mailing to the defendants. See **Exhibit G**.

6. On September 14, 2005, the United States Marshals Service returned to Plaintiff his USM-285 Form dated 8/30/05 directed for Medical Director, Dr. Newton E. Kendig. The Marshals Service by attaching a note to the form stated that "this defendant is not listed on the docket sheet. If you wish to add him as a defendant you will have to petition the court." See **Exhibit H**.

7. On September 27, 2005, the United States Marshals Service returned the Plaintiff's Amended "Process Receipt and Return" Form (USM-285) dated September 13, 2005 stating "These are already in

the process of being served. If you wish to have a second service attempted you will have to petition the courts first." See

Exhibit I.

8. On September 28, 2005, the United States Marshals Service returned to Plaintiff a copy of his USM-285 Form dated 8/30/05 directed for FCI McKean, Route 59, Big Shanty Road, P.O. Box 5000, Lewis Run, PA. 16738, stating that "O/C/W mailed 9/14/05, 9/27/05 returned to court unexecuted- no such number per copy of the envelope." See **Exhibit J.**

9. Also, On September 28, 2005, the United States Marshals Service returned to Plaintiff a copy of his USM-285 Form directed for John J. LaManna at Federal Correctional Institution McKean, Route 59, Big Shanty Road, P.O. Box 5000, Lewis Run, PA. 16738, stating that "O/C/W mailed 9/14/05, 9/27/05 returned to court unexecuted- no such number per copy of envelope. See **Exhibit K.**

I, DEMETRIUS BROWN, hereby affirm and declare under penalty of perjury, 28 U.S.C. §1746, that the foregoing is true and correct.

OCT 06 2005
Dated

Demetrius Brown

BEFORE ME, a Notary Public, on this day personally appeared known to be the person whose name is subscribed above and, being by me first duly sworn, declared that the information above is true and correct.

Given under my hand and seal of office this OCT 06 2005 day of October, 2005.

Notary Public Donald L. Dumas. My commission expires _____.

DONALD L. DUMAS
Notary Public, State of New York
No. 01DU6083407
Qualified in Franklin County
My Commission Expires November 12, 2006